

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

FILED - GR

June 6, 2019 12:52 PM

CLERK OF COURT
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
BY: mkc SCANNED BY: [signature]

Tany Zongker # 396149

(Enter above the full names of all plaintiffs, including prisoner number, in this action.)

v. Branch County Jail

(Enter above the full name of the defendant or defendants in this action.)

1:19-cv-435

Robert J. Jonker - Chief U.S. District Judge
Ray Kent - Magistrate JudgeCOMPLAINT

I. Previous Lawsuits

CAUTION: The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in this and other federal courts without prepayment of the civil action filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$400.00 filing fee regardless of whether your complaint is dismissed.

- A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes ☐ No ☒
- B. If your answer to question A was yes, for each lawsuit you have filed you must answer questions 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.
1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.

 2. Is the action still pending? Yes ☐ No ☒
 - a. If your answer was no, state precisely how the action was resolved: _____
 3. Did you appeal the decision? Yes ☐ No ☒
 4. Is the appeal still pending? Yes ☐ No ☒
 - a. If not pending, what was the decision on appeal? _____
 5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes ☐ No ☒

If so, explain: _____

II. Place of Present Confinement

Saginaw Correctional Facility

If the place of present confinement is not the place you were confined when the occurrence that is subject of instant lawsuit arose, also list the place you were confined:

Branch County Jail

III. Parties**A. Plaintiff(s)**

Place your name in the first blank and your present address in the second blank. Provide the same information for any additional plaintiffs. Attach extra sheets as necessary.

Name of Plaintiff Tony Zongher 396149

Address 9625 pierce Rd Freeland Mi 48623

B. Defendant(s)

Complete the information requested below for each defendant in this action, including whether you are suing each defendant in an official and/or personal capacity. If there are more than four defendants, provide the same information for each additional defendant. Attach extra sheets as necessary.

Name of Defendant #1 Branch County Jail

Position or Title County lock-up, Jail

Place of Employment _____

Address 580 Marshall Rd, Coldwater, Mi 49036

Official and/or personal capacity? Official and personal capacity

Name of Defendant #2 All Correction officers of Branch County Jail

Position or Title To provide safety to All inmates and security of Jail

Place of Employment Branch County Jail

Address 580 Marshall Rd Coldwater Mi 49036

Official and/or personal capacity? Official and Personal Capacity

Name of Defendant #3 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #4 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

Name of Defendant #5 _____

Position or Title _____

Place of Employment _____

Address _____

Official and/or personal capacity? _____

•IV. Statement of Claim

State here the **facts** of your case. Describe how each defendant is personally involved. Include also the names of other persons involved, dates and places. **Do not give any legal arguments or cite any cases or statutes.** If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

Please Refer to Complaint Paragraphs 8 to 17

V. Relief

State briefly and precisely what you want the court to do for you.

please refer to Paragraphs 34 to 39

X June 3, 2019
Date

X Yancy Z. Zandean
Signature of Plaintiff

NOTICE TO PLAINTIFF(S)

The failure of a *pro se* litigant to keep the court apprised of an address change may be considered cause for dismissal.

MICHIGAN DEPARTMENT OF CORRECTIONS
PRISONER STATIONERYCSJ-110 4/90
4835-3110

TO:

NAME		
NO. AND STREET OR R.R.		
CITY	STATE	ZIP

FROM:

NAME	
NO.	LOCK
INSTITUTION	DATE

IN CORRESPONDENCE, USE NAME AND NUMBER ON YOUR LETTER AND ENVELOPE

United States District Court
Western District of Michigan

Tony Lee Zongker
-v-

Civil Action No.

All Corrections Officers
of the Branch County Jail

Complaint

I JURISDICTION & VENUE

1. This is a civil action authorized by 42 USC Section 1983 to redress the deprivation under color of state law of rights secured by the Constitution of the United States. The court has jurisdiction under 28 USC Section 1331(a)(3). Plaintiff Zongker seeks declaratory relief pursuant to 28 USC Section 2201 and 2202. Plaintiff Zongker's claims for injunctive relief are authorized by 28 USC Section 2283 & 2284 and Rule 65 of the Federal Rules of civil procedure.

2. The Western District of Michigan is an appropriate venue under 28 USC Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II PLAINTIFFS

3. Tony Lee Zongker is and was at all times mentioned here in a pretrial detainee and inmate at Branch County Jail when time of events have occurred. He is currently confined in Michigan Department of Corrections at Saginaw Regional Facility, 9625 Pierce Rd. Freeland, MI 48623.

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III DEFENDENTS

4. Branch County Jail is a place of confinement and where the events occurred. The responsibility of Branch County Jail is to secure inmates and pretrial detainees. To keep a safe and secure environment and to provide public safety. The known address is as follows: 580 Marshall Rd. Coldwater, MI 49036.

5. All correction officers of Branch County Jail are involved in and in violation of this complaint

6. All unknown deputies and correction officers involved in the occurrences which caused this claim. Officers of the law at the time of the events but their names were unknown at the time of the events.

7. All unknown deputies and correction officers of Branch County Jail are being sued individually and in his/her official capacity. At all times mentioned in this complaint each defendant acted under the color of the law.

IV FACTS

8. Plaintiff was placed in solitary confinement in the Branch County Jail in Coldwater, MI.

9. Plaintiff was kept in solitary confinement from February 24th 2017 until on or about August 23rd 2017.

10. Plaintiff was never told that he could have access to a phone or that he could make phone calls.

11. On or about August 23rd 2017 plaintiff was moved from solitary confinement to a six man cell in medium security which placed plaintiff in great danger when his case appeared on television news on or about the morning of August 24th 2017.

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12. In or about late August 2017 to late September 2017 plaintiff once again was placed in great danger when an inmate, Nicholas (last name unknown) a man who hated sex offenders and knew that plaintiff is and was a sex offender was placed in the same cell with plaintiff.

13. Inmate Nicholas was overheard by plaintiff when Nicholas told and demanded of a Branch County correction officer (name unknown) that he (Nicholas) be moved to a different cell away from plaintiff because plaintiff was and is a sex offender.

14. Inmate Nicholas was told by correction officer that there weren't any cells available and that he (Nicholas) wasn't going to be moved.

15. Inmate Nicholas did then assault plaintiff causing unconsciousness, multiple lacerations, bleeding, severe bruising and severe pain.

16. After Inmate Nicholas assaulted plaintiff, the before mentioned correction officer (see paragraph 13) was able to find a empty cell for inmate Nicholas.

17. Plaintiff needed and requested stitches but stitches were denied by the correction officer, (see paragraphs 13 and 16). Plaintiff was denied medical care when the correction officer told plaintiff that stitches aren't done inside the mouth.

V EXHAUSTION of ADMINISTRATIVE REMEDIES

Plaintiff did not exhaust administrative remedies for the following understandable and justifiable reasons.

18. Plaintiff understood that he was in the custody of law enforcement authorities whose job it was and is to know, uphold, defend, enforce and equitably administer the law.

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19. Therefore plaintiff had no way of knowing that the correction officers of the Branch County Jail were not upholding, defending, enforcing and equitably administering the law and thereby mistreating, neglecting, endangering and depriving him of his rights under state and federal laws as well as administrative remedies.

20. Plaintiff was never told of or explained to and or about Branch County Jail Policy or administrative remedies.

21. Since plaintiff did not know of administrative remedies because correction officers did not inform him of administrative remedies, plaintiff was therefore not able to make use of or exhaust administrative remedies.

22. When plaintiff did complain to a correction officer, plaintiff received by way of emergency call system a hostile, accusing and perceived threatening response from the correction officer.

VI CLAIMS of RELIEF

(Plaintiff was subjected to cruel and unusual punishment in violation of the Eighth Amendment to the Constitution.)

23. Defendants violated plaintiff's Eighth Amendment Right to be free from cruel and unusual punishment by keeping plaintiff in solitary confinement and keeping plaintiff away from population.

24. Defendants violated plaintiff's Eighth Amendment Right to be free from cruel and unusual punishment by placing plaintiff with people who are known for beating sex offenders

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(Plaintiff was denied due process under the Fourteenth Amendment to the Constitution.)

25. Defendants violated plaintiff's Fourteenth Amendment Right to due process by continuously keeping plaintiff in solitary confinement and away from General Population.

26. Defendants violated plaintiff's Fourteenth Amendment of the Constitution Right to due process by depriving plaintiff of reasonable access to human needs and exercise outside his confinement from population.

27. Defendants violated plaintiff's Fourteenth Amendment of the Constitution Right to due process by depriving plaintiff an opportunity to aggrieve the conditions of his confinement because he was a sex offender.

28. Defendants violated plaintiff's Fourteenth Amendment of the Constitution Right to equal protection from inmates who prey on sex offenders.

(Plaintiff was denied Freedom of Speech and Religion under the First Amendment of the Constitution.)

29. Defendants violated plaintiff's First Amendment of the Constitution Freedom of Speech and Religion by not allowing or notifying plaintiff of visitation procedures and U.S. Postal.

30. Defendants violated plaintiff's First Amendment of the constitution Freedom of Speech and Religion by not allowing plaintiff to participate in any religious services due to plaintiff was a sex offender.

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(Defendants denied plaintiff Equal Protection under the
Fourteenth Amendment of the constitution.)

31. Defendants violated plaintiff's Fourteenth Amendment of the Constitution by discriminating against plaintiff and refusing medical treatment due to plaintiff being a sex offender.

"Jail and prison officials violate the Constitution when they act with deliberate indifference to an inmates medical needs."

32. This violates the Eighth and Fourteenth amendment of the inmates Constitution of State Law and Federal Law.

33. The Supreme Court wrote that the Constitution prohibits officials from intentionally denying or delaying medical care. *Estelle v. Gamble* 429, US at 104-05 *Hemming v. Gorczyk* 134 F.3d 104-05 (2d) (CIR 1998)
Le Marble v. Wisneski 266 F.3d, 429, 437-39 (6th CIR 2001.)

VII Prayer for Relief

Wherefore plaintiff respectfully pray this court enter judgement

34. Granting plaintiff declaration that the omissions described here in violate his rights under the Constitution and laws of the United States and

35. A preliminary and permanent injunction be granted that defendants cease all violations and proper training be done to handle sex offenders and

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A) Order defendants to pay compensatory and punitive damages.

B) Order defendants to pay all court costs and fees.

C) Grant all relief and any equitable relief this court deems just.

36. Granting plaintiff compensatory damages of 1.2 million dollars against each defendant jointly and severally.

37. Granting plaintiff punitive damages of \$150,000.00 against each defendant jointly and severally.

38. Granting plaintiff \$40,000.00 for normal damages paid by Branch County Jail.

39. Plaintiff also seeks jury trial on all issues triable by jury.

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IN CORRESPONDENCE, USE NAME AND NUMBER ON YOUR LETTER AND ENVELOPE

Date ~~X~~ June 3, 2019

Respectfully Submitted

~~X~~ Tony L. Zongker

Name: Tony L. Zongker

Address: Saginaw Regional Facility
 9625 Pierce Rd
 Freeland, MI. 48623

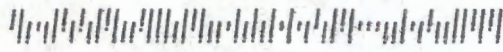
- VERIFICATION -

I Tony L. Zongker hereby verify that the matters are true to the best of my knowledge and believe they are true and I certify under penalty of perjury that the foregoing is true and correct.

Executed at Saginaw County MI. on: ~~X~~ June 3, 2019

~~X~~ Tony L. Zongker
 Tony L. Zongker

Tony L. Zanger
Saginaw Regional Facility
9625 Pierce Rd.
Freeland, MI 48623



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District of Michigan

Court House

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